THE HON'BLE MR JUSTICE GODA RAGHURAM

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WRIT PETITION NO :2494 of 2006

DATED: 17-02-2006

Between:

Upplapu Satyanarayana .. Petitioner

And

SriTalupulamma Ammavari Devasthanam

Lova, TuniMandal, EGDT. And another

.. Respondents

THE HON'BLE MR JUSTICE GODA RAGHURAM

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WRIT PETITION NO :2494 of 2006

ORDER

Heard the learned counsel for the petitioner and the learned Government Pleader for Endowments.

It revealed from the counter affidavit filed by the first respondent (para 10) that the second respondent passed an order dated 10.01.2006 cancelling/recalling

the earlier order of February, 2005 approving the auction of the canteen in the first respondent Devasthanam for a term of three years and modifying the three years term to one year. Admittedly, no notice was issued to the petitioner before such cancellation. The cancellation of a contract between the petitioner and the first respondent as approved by the second respondent, on the basis of a unilateral cancellation of approval earlier given, without notice to the petitioner constitutes a void and unenforceable administrative act.

The impugned notification, dated 25.01.2006 is issued by the first respondent, *inter alia*, calling for tender-cum-public auction of the canteen (Item No.9 of the impugned tender notification). This tender-cum-public auction is therefore, invalid to the extent of Item No.9 of impugned tender notification. Consequently the notification dated 25.01.2006 bearing Rc.No.A4/58/2006 issued by the first respondent is invalid to the extent of the proposal to conduct a tender cum public auction of the canteen in the first respondent Devesthanam.

For the aforesaid reasons, the order of the second respondent bearing reference Rc.No.C1/39370/2005 dated 10.01.2006 (admittedly un-communicated to the petitioner) is still born and unenforceable. Consequently, the petitioner's licence for running the canteen is operative for a period of three years as per the agreement originally entered into between the first respondent and petitioner as approved by the second respondent in February, 2005. The illegal notification of the tender cum public auction by the second respondent in respect of the canteen in the first respondent Devesthanam is the product of a patently illegal order of the second respondent dated 10.01.2006. The second respondent withdrew the earlier approval given by the order dated 10.01.2006 and restricted the three year lease entered into with the petitioner to one year (commencing from 01.04.2005 to 31.03.2008) in patent violation of the principles of natural justice. The conduct of the second respondent constitutes a naked transgression of clearly established principles of natural justice. The second respondent cannot plead ignorance of this fundamental postulate of law in exercise of administrative functions holding as the 2nd respondent does, the Office of the Commissioner of Endowments. Such patently illegal orders apart from adversely impacting citizens impose a wholly avoidable burden on the overloaded judicial branch.

For the aforesaid reasons, the writ petition is allowed setting aside the tender-cum-public auction notification of the first respondent bearing Rc.No.A4/58/2006 dated 25.01.2006, insofar as Item No.9 is concerned, which pertains to the licence for running a canteen in the first respondent Devastanam. The second respondent shall be liable to pay costs in an amount of Rs.2,500/- of which Rs.1,000/- shall be paid to the first respondent and Rs.1,500/- to the Secretary, A.P. State Legal Services Authority, Hyderabad, within a period of two weeks from today. It is open to the State Government to initiate appropriate administrative proceedings to recover the amount of costs from the concerned erring officers for the patently illegal orders. A copy of this order also be communicated to the Secretary, A.P. State Legal Services Authority, Hyderabad.

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17-02-2006

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